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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/670,528 | 09/26/2003 | Sylvia Monsheimer | 236706US6 | 6515 |

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| EXAMINER | |
|---|---|
| COZART, JERMIE E | |
| **ART UNIT** | **PAPER NUMBER** |
| 3726 | |

| NOTIFICATION DATE | DELIVERY MODE |
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| 02/01/2008 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/670,528 | MONSHEIMER ET AL. | |
| | Examiner | Art Unit | |
| | Jermie Cozart | 3726 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *20 December 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *10-13, 17-20, 24-27 and 31-41* is/are pending in the application.

4a) Of the above claim(s) *11,12,18,19,25,26,32,33,35-37 and 39* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *10,13,17,20,24,27,31,34,38,40 and 41* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 10, 13, 17, 20, 24, 27, 31, 34, 38, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Savitski et al. (6,596,122) in view of Fischerkeller et al. (6,155,302).

Savitski discloses a composite part such as a pipeline (20, 30, 40), wherein the pipeline can be can be configured in a variety of different sizes which therefore leads to other inherent uses (i.e. fuel line). The pipeline comprises a transmissive adaptor (40) which both a plastic pipe (20) and another plastic part (30) which are essentially not transmissive. The adaptor (40) is a sleeve. The adaptor and the plastic pipe and the other plastic part are welded together by using a laser (col. 6, lines 35-45), and it is apparent that the parts are welded to one another along their periphery. The other plastic part (30) is a pipe. The pipeline of Savitski can be considered is essentially a hydraulic fluid line and can also be considered a motor vehicle pipeline. *See column 6, line 23 – column 10, line 3, and figures 1-3 for further clarification.*

Regarding the above cited rejections, *MPEP Section 2113 [R-1]* **Product By Process Claims**, states that "[T]he lack of physical description in a product-by-process claim makes determination of the patentability of the claim more difficult, since in spite

of the fact that the claim may recite only process limitations, it is the patentability of the product claimed and not of the recited process steps which must be established. We are therefore of the opinion that when the prior art discloses a product which reasonably appears to be either identical with or only slightly different than a product claimed in a product-by-process claim, a rejection based alternatively on either section 102 or section 103 of the statute is eminently fair and acceptable. As a practical matter, the Patent Office is not equipped to manufacture products by the myriad of processes put before it and then obtain prior art products and make physical comparisons therewith." In re Brown, 459 F.2d 531, 535, 173 USPQ 685, 688 (CCPA 1972).

Savitski, however, does not disclose the other plastic part having at least one nipple which is provided for the connection to the pipe, wherein the nipple is provided on the outside with a profile.

Fischerkeller discloses providing another plastic part (11) with at least one nipple (10) which is use for the connection to the pipe (20) wherein the nipple (10) is provided on the outside with a profile, the plastic part (11) and pipe (20) also employ the use of an adaptor (22) to aid in the assembly of the pipe and part with respect to one another. In addition, the nipple (10) and adaptor (22) can be subjected to heat during assembly (col. 2, line 66 – col. 3, line 8). *See column 1, line 66 – column 2, line 24, and figure for further clarification.*

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the other plastic part of Savitski with at least

one nipple wherein the nipple is provided on the outside with a profile, in light of the teachings of Fischerkeller, in order to connect the other plastic part to the pipe.

***Response to Arguments***

3. Applicant's arguments filed 9/4/07 have been fully considered but they are not persuasive.

Applicant argues that one would not look to Fischerkeller et al. to modify Savitski et al. to incorporate a nipple provided on the outside with a profile.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the base reference to Savitski as explained in detail above connects the pipe and other plastic using an adaptor and joins all the parts together by laser welding. Fischerkeller discloses connecting a pipe (20) and the other plastic part (11) wherein the other plastic part is provided with a nipple (10) being provided on the outside with a profile and the pipe is provided with an adaptor (22) that facilitates the joining of the pipe and part to one another. Although Savitiski uses welding to in combination with the adaptor to join the pipe and plastic pipe to one another, the specification of Savitski does not exclude the possibility of adding supplemental retention features to either the pipe or other

plastic pipe in combination with welding or heating. The teachings of Fischerkeller in no way destroy the teachings of Savitski, and in fact the arrangement/connection of Fischerkeller achieves reliable sealing (col. 2, lines 60-66) even if the pipe (20) should widen after being heated since the adaptor (22) is prestressed to provide significant compressive pressure to the pipe (20) and plastic part (11), and thereby maintains the reliable sealing previously mentioned. Therefore, the teachings of Fischerkeller provide the necessary motivation for one of ordinary skill in the art at the time of invention to provide the other plastic part of Savitski with at least one nipple because during a heating stage the connection of the components does not become loose or untight since they expand identically and during a cooling stage they shrink identically even though a nipple is employed.

Applicant also argues that the issue is whether the references in combination suggest the claimed invention.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermie Cozart whose telephone number is 571-272-4528. The examiner can normally be reached on Monday-Thursday, 7:30 am - 6:00 pm. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 27, 2008

JERMIE E. COZART
PRIMARY EXAMINER